

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

DAVID AQUINO,

Plaintiff,

-against-

9:04-CV-87  
(LEK/DRH)

ROY GIRDICH, Superintendent of Upstate Correctional Facility; LESTER WRIGHT, M.D.; ANTHONY BOUCAUD, Deputy Superintendent of Administration; EVELYN L. WEISSMAN, M.D.; DR. CRAIG W. RICHARDS; LOUISE TICHENOR, Physician Assistant; AMY TOUSIGNANT, N.A.; R.N. N. SMITH, N.A.; DEANA L. BUFFHAM, R.N.; JOHN DOE, Employees of Upstate Correctional Facility; THOMAS G. EAGEN, Director, Inmate Grievance Program; JOHN DOE 1-20, Employees of Dept. of Correctional Services; STATE OF NEW YORK; and GLEN S. GOORD,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on September 19, 2006, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 75).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. In the interval of at least fifteen days since the Magistrate Judge filed the subject

Report-Recommendation, no objections to it have been raised. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 75) is **APPROVED** and  
**ADOPTED** in its **ENTIRETY**; and it is further

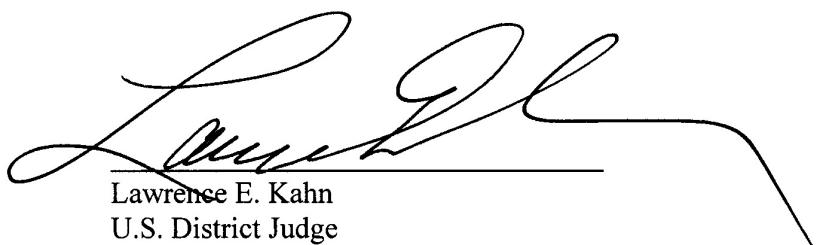
**ORDERED**, that Defendants' Motion for summary judgment (Dkt No. 66) is **GRANTED**;  
and it is further

**ORDERED**, that the complaint is **DISMISSED WITHOUT PREJUDICE** as to Defendant  
State of New York and all John Doe Defendants; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: January 23, 2007  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge